

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:

J. CLARKE STEVENS ET AL.

Serial No.: 09/396,612

Filed: September 15, 1999

For: METHOD AND SYSTEM FOR AUTOMATING  
INVENTORY MANAGEMENT OF CONSUMER ITEMS

Attorney Docket No.: MEDO 5016 PUS

Group Art Unit: 3627

Examiner: Gerald J. O'Connor

**REPLY BRIEF UNDER 37 C.F.R. § 41.41**

Mail Stop Appeal Brief - Patents  
Commissioner for Patents  
U.S. Patent and Trademark Office  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

This reply brief is in response to the Examiner's Answer mailed on December 28, 2006 for this application.

### **Remarks**

Claims 1-8 and 10 stand rejected under 35 U.S.C. 102(b) as being anticipated by Green et al. (U.S. Pat. No. 5,664,110). In response to the Examiner's Answer, Appellants maintain that all claims are separately patentable over this applied reference for reasons set forth in the Appeal Brief and for further reasons explained below.

Claims 1-8 and 10 stand rejected under 35 U.S.C. 102(e) as being anticipated by Kenney (U.S. Pat. No. 6,026,376). In response to the Examiner's Answer, Appellants maintain that all claims are separately patentable over this applied reference for reasons set forth in the Appeal Brief and for further reasons explained below.

Claims 1-8 and 10 stand rejected under 35 U.S.C. 102(e) as being anticipated by Petrovich et al. (U.S. Pat. No. 6,101,483). In response to the Examiner's Answer, Appellants maintain that all claims are separately patentable over this applied reference for reasons set forth in the Appeal Brief and for further reasons explained below.

Claim 1, for example, recites a method for automating the management of an inventory of consumer items at a consumer location using a programmed device accepting input data and executing instructions for automating inventory management. The method comprises receiving a series of shopping lists. Each shopping list includes at least one item. The method further comprises establishing a shopping list trend based on the series of shopping lists. An output list is generated in accordance with the shopping list trend such that the output list is predictive of a next shopping list.

The method further comprises receiving a plurality of item price lists from a corresponding plurality of shopping locations. A shopping location is recommended based on the plurality of item price lists and the output list.

Appellants maintain that Green does not describe or suggest establishing a shopping list trend and generating an output list in accordance with the shopping list trend in combination with the other limitations recited by independent claim 1.

In the Examiner's Answer, the Examiner continues to make reference to the custom reference lists discussed in Green, which appear to be fixed customizable lists that are not generated in accordance with a shopping list trend as recited by independent claim 1. Green, at most, discloses the incorporation of custom reference lists into an order list. Claim 1 specifically recites the three inter-related actions of: receiving a series of shopping lists, establishing a shopping list trend, and generating an output list. The Examiner states that Green incorporates custom reference lists into an order list currently being constructed. Even if the Examiner's interpretation of Green is correct, incorporating custom reference lists into an order list currently being constructed does not anticipate the claimed three inter-related actions of: receiving a series of shopping lists, establishing a shopping list trend, and generating an output list.

In the Examiner's Answer, the Examiner goes on to state that the recited steps/functionality can be performed manually or mentally. However, the issue on appeal, and the only question that needs to be answered, is whether Green anticipates the claimed invention and not whether the recited actions could be performed manually or mentally.

For reasons given above and in the Appeal Brief, Appellants maintain that Green does not anticipate the claimed invention.

Appellants maintain that Kenney also does not describe or suggest establishing a shopping list trend and generating an output list in accordance with the shopping list trend in combination with the other limitations recited by independent claim 1.

In the Examiner's Answer, the Examiner states that the features upon which Appellants rely are not recited in the claims. Claim 1 specifically recites the three inter-related

actions of: receiving a series of shopping lists, establishing a shopping list trend, and generating an output list, in combination with other limitations. The Examiner has not pointed out any teaching of these claimed features in Kenney.

In the Examiner's Answer, the Examiner goes on to state that the recited steps/functionality can be performed manually or mentally. However, the issue on appeal, and the only question that needs to be answered, is whether Kenney anticipates the claimed invention and not whether the recited actions could be performed manually or mentally.

For reasons given above and in the Appeal Brief, Appellants maintain that Kenney does not anticipate the claimed invention.

Appellants maintain that Petrovich also does not describe or suggest establishing a shopping list trend and generating an output list in accordance with the shopping list trend in combination with the other limitations recited by independent claim 1.


In the Examiner's Answer, the Examiner states that the features upon which Appellants rely are not recited in the claims. Claim 1 specifically recites the three inter-related actions of: receiving a series of shopping lists, establishing a shopping list trend, and generating an output list, in combination with other limitations. The Examiner has not pointed out any teaching of these claimed features in Petrovich.

In the Examiner's Answer, the Examiner goes on to state that the recited steps/functionality can be performed manually or mentally. However, the issue on appeal, and the only question that needs to be answered, is whether Petrovich anticipates the claimed invention and not whether the recited actions could be performed manually or mentally.

For reasons given above and in the Appeal Brief, Appellants maintain that Petrovich does not anticipate the claimed invention.

Respectfully submitted,

**J. CLARKE STEVENS ET AL.**

By   
Jeremy J. Curcuri  
Reg. No. 42,454  
Attorney for Applicants

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**BROOKS KUSHMAN P.C.**  
1000 Town Center, 22nd Floor  
Southfield, MI 48075-1238  
Phone: 248-358-4400  
Fax: 248-358-3351